

COUNCIL DISCUSSION FORM

WORK SESSION ITEM NO. 2

MEETING DATE: AUGUST 4, 2014

STAFF CONTACT: MIKE HALL, AICP, COMMUNITY DEVELOPMENT DIRECTOR

Agenda Item: Urban Agriculture/Urban Farming

Department: Community Development Department

Background Information

Nationally and locally, in recent years people have become more interested in growing their own fruit, vegetables, harvesting eggs from their own chickens, and in keeping bees for honey. While small scale agriculture and the desire for more self-sufficiency is not new, interest in organic and locally produced food, public food safety concerns and the desire to better understand sources of food has broadened the interest in urban agriculture.

Around the country many cities have amended their regulations to respond to the growing interest in and practice of urban agriculture. In Gardner and other cities, regulations have not changed perhaps because changes in regulations have not been determined to be a priority, or because the consequences of changing regulations and the policy alternatives are not fully understood.

In Gardner several citizens have inquired at City Hall about regulations for the keeping of chickens in residential neighborhoods and, it appears, have found that Gardner's regulations restrict or make difficult the keeping of chickens on parcels of less than three acres. While the keeping of chickens has been the most salient issue recently, staff anticipates inquiries about other forms of urban agriculture, including but not limited to keeping gardens and keeping bees.

This report includes definitions of urban agriculture and related terms, describes what Gardner's current regulations permit and do not permit, and what other cities have done to address urban agriculture. The report also highlights potential issues and concerns and describes some options for easing restrictions on urban agriculture. This report does not attempt to resolve the issue of animals as pets since the keeping of animals for pets and not for food production falls outside the definition of urban agriculture.

Issues and Concerns

The following is a list of general issues and concerns to help frame the analysis and policy discussion.

- Should urban agriculture be permitted as a primary use in non-agricultural zoning districts? An example of a primary use is a neighborhood or community garden on a lot in a residential subdivision with the sole use of that lot being the garden.
- Should various forms of urban agriculture be allowed or limited to an accessory use in residential districts? An example of agriculture as an accessory use is a residential lot with the primary use being a residence and the accessory use being a vegetable garden

or chicken coop tended by the resident. Vegetable gardens as accessory uses are relatively common. Chickens are presumably far less common.

- What are the potential benefits from lessening restrictions on urban agriculture? Benefits may include:
 - Allowing households to be more self-sufficient and a more environmentally responsible lifestyle as a result of consuming food from local sources.
 - Improving resident's (children, in particular) understanding of sources of food such as honey, eggs, and milk.
 - Attracting residents to Gardner by offering urban agriculture as a lifestyle choice.
- What are the potential negative effects from lessening restrictions on urban agriculture? The attached December 13, 2013 memo from staff to the Governing Body describes nuisances in some detail.
 - Noise: Municipal codes that allow the keeping of chickens typically include restrictions on roosters because of the noise roosters generate.
 - Odor: Animals generate manure and, therefore, some regulations require management of manure.
 - Potential for disease transmission: The research suggests some risk to humans from direct contact with chickens or chicken manure.
 - Potential for attracting pests: Raccoons and other animals may be attracted to chickens and their eggs.
 - Potential for direct harm: For jurisdictions considering provisions for beekeeping, there may be concerns about the potential for aggressive bees. This is especially a concern for those allergic to bee venom.
- What are the aesthetic impacts from urban agriculture? A vegetable garden occupying a large share of a rear yard is probably acceptable to neighbors. Neighbors might not be pleased with a vegetable garden covering a large portion of the front yard.
- What are the effects of urban agriculture on the amount and design of accessory buildings?
- Is there a way to provide for more opportunities for urban agriculture while mitigating negative effects through proper standards? Can such standards be effectively enforced?

Definition and Scope of Urban Agriculture

The American Planning Association and the University of Missouri offer the following definitions for urban agriculture and include in their definitions a variety of land animals, fish and the raising of crops.

Urban Agriculture is the production of food for personal consumption, education, donation, or sale and includes associated physical and organizational infrastructure, policies, and programs within urban, suburban, and rural built environments. (Hodgson, Kimberly, Caton Campbell, Marcia, Bailkey, Martin. (2011) *Urban Agriculture: Growing Healthy, Sustainable Places*, PAS Report Number 563. Chicago, IL: American Planning Association)

Urban Agriculture is the growing, processing and distribution of food crops and animals products within an urban environment. (<http://extension.missouri.edu/foodsystems/urbanagriculture.aspx>)

The definitions are broad but do not include the keeping of animals as pets. The keeping of pigs, chickens, or goats is not within the definition of urban agriculture unless food is produced as a result.

Gardner Community Garden

The Gardner Community Garden is an effective form of urban agriculture. The local Knights of Columbus sponsors the Gardner Community Garden on private property located just south of the Divine Mercy Parish and west of Westside Park. According to the Community Garden web site, the Gardner Community Garden rents 345 square foot garden plots to individuals, families, or groups to grow produce for themselves. The remaining four acres is used as a communal garden to grow bulk crops and is tended by youth groups and local organizations. Produce from the communal garden is offered to plot gardeners and the remainder is given to people in need in Gardner. The Kansas State University Extension and the City of Gardner Parks & Recreation Department has provided various forms of support to the Community Garden.

Gardner Municipal Code and Urban Agriculture

In order to facilitate a broad range of urban agriculture in Gardner, amendments to Title 6 (Animal Regulations), Title 8 (Property Maintenance), and various chapters of Title 18 (Zoning) might be necessary. More specifically:

- Section 6.05.060 requires a Special Use Permit issued by the "Director of Public Safety" for the keeping of *"any animal . . . normally associated with that of being a farm animal (including but not limited to a horse, cow, pig, chicken, rooster, goat, etc.) in areas not zoned for agricultural use."* To facilitate urban agriculture, this section should be amended to provide greater certainty to the permitting of animals for agricultural purposes.
- Title 8, the Property Maintenance code, limits the height of grass, weeds and other vegetation to 8 inches(8.10.010.LL). Section 8.80.070.C exempts vegetation used for agricultural purposes "as evidenced by fertilizer or pesticide use for the cultivation of plants trees or crops annually grown, raised and harvested at an appropriate date. . . ." This section of the code would need to be amended in order to exempt organically grown crops from the restriction on vegetation exceeding a height of 8 inches.
- Title 18, Section 18.15.020 (standards for Agricultural zoning district) allows "farming, dairy farming, livestock, poultry raising, game birds, pasturing of livestock, and all uses commonly classed as agricultural" but requires setbacks of from 100 to 300 feet feeding or refuse disposal within residential zoning districts.
- The predominant zoning for single family residential land uses is R-1, where there is likely to be the greatest interest in urban agriculture. Title 18, Section 18.140.100 (accessory uses for districts R-1 and R-2) permits the keeping of "horses, cows, chickens or other animals" on parcels of three acres or more. A special use permit, subject to a public hearing by the Planning Commission and approval by the Governing Body, is required for the keeping of animals as described on parcels of less than three acres. To facilitate urban agriculture, including but not limited to the raising of chickens, this section would need to be amended to allow the keeping of such animals as a permitted use.
- Title 18, Section 18.140.100.B (Accessory Buildings and Structures in the R-1 and R-2 districts) limits the number of detached accessory structures to "one detached garage or carport and one detached accessory building used for storage". Staff anticipates that residents wanting to keep chickens or other agricultural animals will have a need for a coop, stable or other accessory structures exceeding the number of structures permitted

by this section and, therefore, this section might need to be amended to facilitate urban agriculture.

Other Cities' Regulations

Many cities throughout the country are amending their codes to allow for more urban agricultural/farming uses on smaller residential lots and undeveloped properties. For more detailed information, please refer to Table 1.

Kansas City, Missouri has amended their code to provide definitions and standards for specific agricultural uses. Specifically the code defines crop agriculture, home garden, community garden, and community supported agriculture (CSA). Animal agriculture is permitted but regulated based on standards outside of the zoning code. Livestock, small animals and chickens are permitted with standards. Generally, agriculture uses, both crop and animal are permitted in residential districts although with standards. On-site sales of products require a Special Use Permit for Crop Agriculture and are permitted during a certain time of the year for a Home Garden.

Lacey, Washington incorporated a great amount of detail regarding horticulture, animal and agricultural uses into their codes in 2011. Definitions of horticultural activity, large farm animals, limited animal husbandry, small farm animals, transitional urban agricultural uses and urban agriculture have been added along with an entire chapter of their zoning regulations regarding urban agriculture. Standards for these uses on residential lots smaller than one acre, residential lots larger than one acre, and on nonresidential lots or undeveloped lots are provided. The urban agricultural uses in the residential districts are permitted as accessory uses (the principal use being a permitted residential use). The regulations include standards for keeping domestic fowl and rabbits, miniature goats, and beekeeping and include lot size to animal number ratios, associated structure locations and setbacks. Traditional large farm animals are permitted on lots larger than an acre with lot size/animal number ratios and structure locations and setbacks.

Olathe, Kansas recently completed a new *Unified Development Ordinance*. The ordinance provides for agricultural and agricultural support uses in the AG Agriculture District. It incorporates a “non-commercial agricultural/community garden” use that is permitted in the majority of the zoning districts. This use is defined as a site operated and maintained by an individual or group to cultivate trees, herbs, fruits, ornamental foliage for the following uses: personal use, consumption, donation or off site sales of items by an individual or group. Other agricultural uses are mainly permitted in the Agricultural District. Gardens are listed as an accessory use in residential districts. Farm animals (horses, ponies, cows, hogs and chickens) requires a Special Use Permit if the property is less than three acres and permitted by right if the property is greater than three acres. The maximum number is one animal per acre for horses, ponies, and cows. No limits were provided for chickens with the exception of minimum setbacks for coops being six feet and a minimum of 40 feet from the nearest neighboring dwelling.

Options and Potential Code Changes

The Gardner Zoning Ordinance requires a special use permit, approved by the Governing Body, for agricultural uses on parcels smaller than three acres. A small number of Gardner's current residential land uses are zoned Agricultural. The vast majority of single family residential land uses, where there is likely to be interest in small scale urban agriculture, are located in the R-1

(Single Family Residential) District on small lots much less than one acre in size. In the R-1 District the minimum lot area is 8,000 square feet (.18 acre).

Fruit and Vegetable Gardens. Small fruit and vegetable gardens, as a use accessory to residential use, are common and presumably accepted by most if not nearly all Gardner residents. However, the zoning regulations do not expressly permit gardens as accessory uses. Adding provisions for gardens in the accessory uses section of the Zoning Ordinance may be worthwhile. In addition, there are currently not provisions or standards for gardens in front yards. Future conflicts may be avoided by the addition of standards for gardens in front yards.

Keeping Chickens. There is currently much interest from residents in keeping chickens. Staff recommends caution in lessening restrictions on keeping chickens. If it is the direction of the Governing Body to examine further, and possibly draft, less restrictive regulations for keeping chickens, staff recommends that new regulations address the need for coops and runs, setbacks from property lines and neighboring residences, and limitations on the number of hens and roosters. One challenge to limitations on roosters is the difficulty of determining the sex of chicks. What appear to be hens when they hatch may mature to roosters. Additionally, setbacks for coops and runs might make it difficult for residents on the smallest residential lots to comply with setbacks. Furthermore, chicken coops will most likely take the form of a detached accessory building and the Zoning Ordinance currently limits residents to one detached accessory building. Proper enforcement of new standards may necessitate the application and issuance of some form of permit by staff.

Livestock and Bees. If it is the direction of the Governing Body to examine less restrictive regulations for keeping chickens, staff recommends the keeping of bees and livestock also be evaluated in anticipated of residents' desires.

Attachments:

1. Definitions and Internet References for Urban Agriculture
2. Urban Agriculture Codes from Other Cities
3. December 13, 2013 Memo regarding Keeping of Chickens

Attachment 1: Definitions and Internet References for Urban Agriculture

The definitions of urban agriculture are generally broad, including everything from a household growing vegetables in pots to large scale crop production, and the keeping of a few chickens to the keeping of large livestock or raising of fish.

Below are some examples of different definitions of Urban Farming/Agriculture and associated terms.

Urban Agriculture is the production of food for personal consumption, education, donation, or sale and includes associated physical and organizational infrastructure, policies, and programs within urban, suburban, and rural built environments. (Hodgson, Kimberly, Caton Campbell, Marcia, Bailkey, Martin. (2011) *Urban Agriculture: Growing Healthy, Sustainable Places*, PAS Report Number 563. Chicago, IL: American Planning Association)

Urban Agriculture is the growing, processing and distribution of food crops and animals products within an urban environment. (<http://extension.missouri.edu/foodsystems/urbanagriculture.aspx>)

Home Garden is a garden maintained by one or more individuals who reside in a dwelling unit located on the subject property. Food and/or horticultural products grown in the home garden may be used for personal consumption, and only whole, uncut, fresh food and/or horticultural products grown in a home garden may be donated or sold on-site within a reasonable time of its harvest. (Kansas City Missouri Zoning & Development Code, Section 88-312-02-A)

Community Garden is an area of land managed and maintained by a group of individuals to grow and harvest food and/or horticultural products for personal or group consumption or for sale or donation. A community garden area may be divided into separate garden plots for cultivation by one or more individuals or may be farmed collectively by members of the group. (Kansas City Missouri Zoning & Development Code, Section 88-312-02-B)

Community Supported Agriculture (CSA) is an area of land managed and maintained by an individual or group of individuals to grow and harvest food and/or horticultural products for shareholder consumption or for sale or donation. (Kansas City Missouri Zoning & Development Code, Section 88-312-02-C)

Institutional Garden is a small to large food-producing garden or orchard located on private or public institutional property (school, hospital, faith-based organization, workplace) in a residential, commercial or mixed-use area, gardened by an organization or business. (http://www.fundersnetwork.org/files/learn/Investing_in_Urban_Agriculture_Final_110713.pdf)

Edible Landscape is the use of food-producing plants in the design of private and public outdoor spaces in residential, commercial and mixed-use developments attended to by an individual or business. (http://www.fundersnetwork.org/files/learn/Investing_in_Urban_Agriculture_Final_110713.pdf)

Hobby Beekeeping is the small-scale keeping of honeybees for personal uses. (http://www.fundersnetwork.org/files/learn/Investing_in_Urban_Agriculture_Final_110713.pdf)

Animal Husbandry is the farming of animals to produce foods such as meat, eggs, and milk. (<http://dictionary.cambridge.org/us/dictionary/british/animal-husbandry>)

Aquaculture the active cultivation (maintenance or production) of marine and freshwater aquatic organisms (plants and animals) under controlled conditions.

(<http://www.epa.gov/oecaagct/anaquidx.html>)

Hydroponics is a method of growing plants in water rather than in soil. (<http://www.merriam-webster.com/dictionary/hydroponics>)

Hobby Chicken Keeping is small-scale keeping of chickens for personal use in residential areas or for commercial use in residential, mixed-use, or other public land areas. (http://www.fundersnetwork.org/files/learn/Investing_in_Urban_Agriculture_Final_110713.pdf)

2. URBAN AGRICULTURE CODES FROM OTHER CITIES

Table 1				
City	Use	Definition	Where Permitted	Standards
Kansas City, MO	Home Garden/Garden	A garden maintained by one or more individuals who reside in a dwelling unit located on the subject property.	All residential Districts with standards	<ul style="list-style-type: none"> • Can be sold onsite from May 15-Oct 15 • Onsite sales are not considered under a home occupation • Row crops not permitted in front yard except in R-80 District • Row crops" shall be defined as grain, fruit or vegetable plants, grown in rows, which are 24 inches or more in height • home garden is an accessory use to a principal residential use, and must comply with the lot and building standards for its zoning district
	Community Garden	An area of land managed and maintained by a group of individuals to grow and harvest food and/or horticultural products for personal or group consumption or for sale or donation	All residential Districts with standards	<ul style="list-style-type: none"> • must comply with the lot and building standards for its zoning district. • All chemicals and fuels shall be stored in an enclosed, locked structure when the site is unattended • Community garden group members may or may not reside on the subject property • Sales and donation of only whole, uncut, fresh food and/or horticultural products grown in the community garden may occur on-site on otherwise vacant property, but may not occur on residentially zoned and occupied property, except property zoned R-80 • Row crops are not permitted in the front yard of a residentially zoned and occupied property, except property zoned R-80 • Row crops" shall be defined as grain, fruit or vegetable plants, grown in rows, which are 24 inches or more in height • A community garden may be a principal or accessory use

2. URBAN AGRICULTURE CODES FROM OTHER CITIES

Table 1				
City	Use	Definition	Where Permitted	Standards
Kansas City, MO	Crop Agriculture	An area of land managed and maintained by an individual or group of individuals to grow and harvest food crops and horticultural products (including flowers, trees, and bees and apiary products) for off-site sale in locations where retail sales are an allowed use.	All residential Districts with standards	<ul style="list-style-type: none"> Garden and farm-related buildings and structures must comply with the accessory structure setback requirements that apply in the subject zoning district. Crop areas must be set back at least 3 feet from all property lines. The required setback must be covered with ground cover plants, which may include grasses. The site must be designed and maintained so that chemicals will not drain onto adjacent property. On-site sales of whole, uncut, fresh food and/or horticultural products grown on the crop agriculture property are allowed on property zoned R-80.
	Large Animals/Livestock	Any swine, bovine, goat, sheep or beast of burden, or any other domestic or wild animal of similar or larger size.	All residential Districts with standards	<ul style="list-style-type: none"> Not kept, maintained, pastured or fed within 200 feet of the nearest portion of any building in any way used by human beings, other than the dwelling occupied by the owner or keeper of any of such animals not more than two of such animals shall be kept The property maintenance appeals board is hereby authorized to grant special exceptions to the requirements
	Small Animals/Fowl	Any animal not within the definition of large animal, but including all dogs without reference to size.	All residential Districts with standards	<ul style="list-style-type: none"> Not kept closer than 100 feet to the nearest portion of any residence or dwelling other than the dwelling occupied by the owner or keeper of the animals or fowl Animals and fowl so kept or maintained shall be enclosed on all sides and shall not be allowed to run or fly at large No more than 15 chickens or other domestic fowl four months or more of age or more than 50 chicks

2. URBAN AGRICULTURE CODES FROM OTHER CITIES

Table 1				
City	Use	Definition	Where Permitted	Standards
				<p>or other domestic fowl under four months of age, or more than ten rabbits or other small animals over the age of four months, or more than 25 rabbits or other small animals under the age of four months.</p> <ul style="list-style-type: none"> No rooster which crows shall be kept within 300 feet of any residence or dwelling except that of the owner or keeper.
Lacey, WA	Urban Agriculture	Includes a range of agricultural activities at various intensities. Agricultural activities falling under this definition include both "Horticulture" and "Limited Animal Husbandry" uses. Urban Agriculture is permitted under limitations considering compatibility with other land uses in the context of the urban environment and associated land use/zoning designations;	Residential and non-residential lots	<ul style="list-style-type: none"> See each use below

2. URBAN AGRICULTURE CODES FROM OTHER CITIES

Table 1				
City	Use	Definition	Where Permitted	Standards
	Horticultural Activity	The raising of plants for the use of the plants or their products, generally for food production, but may also include ornamental uses; examples include vegetable raising, P-Patch community gardens, raising flowers, orchards, vineyards and similar activities.	Residential and non-residential lots as an accessory or transitional use	<ul style="list-style-type: none"> All horticultural activity for personal use and incidental sales or distribution on site and off site at a farmers market or approved retail area; provided commercial sales may be accommodated subject to the 2001 FDA food code and requirements of a home occupation
Lacey, WA	Large Farm Animal	This term shall refer to varieties of large animals used in urban agricultural activities for production of food, their products, or use such as cows, sheep, goats, horses, swine and other similar sized farm animals. Miniature varieties of farm animals such as pygmy goats shall not be considered large farm animals.	Residential and non-residential lots as an accessory or transitional use	<ul style="list-style-type: none"> 1/2 acre Barns or other structures setback 35' from property lines

2. URBAN AGRICULTURE CODES FROM OTHER CITIES

Table 1				
City	Use	Definition	Where Permitted	Standards
	Limited Animal Husbandry	The keeping of animals for the use or the sale of their products, such as meat, milk or eggs. Examples of animal husbandry uses are raising poultry for eggs and meat, raising rabbits for meat, keeping goats or cows for milk or meat, keeping bees for honey or pollination of plants and other similar activities.	Residential and non-residential lots as an accessory or transitional use	<ul style="list-style-type: none"> Limited animal husbandry of small farm animals for personal use; provided commercial sales may be accommodated subject to the 2001 FDA food code and requirements of a home occupation. Limited to: <ul style="list-style-type: none"> Domestic fowl and rabbits <ul style="list-style-type: none"> 1/1,000 ft up to 10 Structures located 10' from property line Miniature goats <ul style="list-style-type: none"> Males are neutered Lot minimum of 7,000 sf 4 goats/acre Beekeeping <ul style="list-style-type: none"> Must be registered with state Max of 4 hives 25' setback from property line Other poultry and small animals <ul style="list-style-type: none"> May be permitted or prohibited by the director of community development
Lacey, WA	Small Farm Animal	Small varieties of animals used in urban agricultural activities for production of food or their products and generally under 150 pounds, such as chickens, rabbits, pygmy goats, bees, and other similar sized farm animals.	Not specifically mentioned	<ul style="list-style-type: none"> None

2. URBAN AGRICULTURE CODES FROM OTHER CITIES

Table 1				
City	Use	Definition	Where Permitted	Standards
	Transitional Urban Agricultural Use	An urban agricultural activity utilizing land prior to the time another activity is developed. This will usually occur as a temporary use of a site to provide a useful benefit on land until a more permanent use is established.	Non-residential lots	
	Community/Communal Urban Agricultural Activities	All horticultural activity organized in the form of communal farming arrangements on property used in common for these purposes or where small lots or back yards have raised beds or segregated plots for lease for gardening activity	Residential lots	<ul style="list-style-type: none"> • Generally requires site plan review and approval • Incidental sales of produce can be sold on or off the property •

2. URBAN AGRICULTURE CODES FROM OTHER CITIES

Table 1				
City	Use	Definition	Where Permitted	Standards
Olathe, KS	Agricultural Use	The use of land where that is devoted to the production of plants, animals or horticultural products, including but not limited to: forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; or nursery, floral, ornamental and greenhouse products. Agricultural use does not include use of land for recreational purposes, suburban residential acreages, rural home sites or farm home sites and yard plots whose primary function is for residential or recreational	Agriculture District	<ul style="list-style-type: none"> • There are no restrictions as to operation of agricultural vehicles and machinery that are used to raise or harvest products on the premises. • There is no restriction on the sale or marketing of products raised on the premises. • All buildings, structures or yards used to raise, feed, house or sell livestock or poultry shall be located at least one hundred (100) feet from residentially-zoned land.

2. URBAN AGRICULTURE CODES FROM OTHER CITIES

Table 1				
City	Use	Definition	Where Permitted	Standards
		purposes even though the properties may produce or maintain some of those plants or animals listed in the foregoing definition.		
	Non-Commercial Agriculture/Community Garden	A site operated and maintained by an individual or group to cultivate trees, herbs, fruits, ornamental foliage	All districts	

2. URBAN AGRICULTURE CODES FROM OTHER CITIES

Table 1				
City	Use	Definition	Where Permitted	Standards
		for the following uses: personal use, consumption, donation or off site sale of items grown on the site.		
Olathe, KS	Agricultural Purposes	Land, including necessary buildings and structures, is considered used for agriculture if the zoning lot contains at least forty (40) acres of land area, and if the principal use is the raising or keeping of livestock and/or the growing of crops in the open.		
	Livestock Sales and Markets		Agriculture and Residential Single Family Districts	
	Hatcheries and Poultry Houses		Agriculture District	
	Commercial Forestry		Agriculture and Residential Single Family Districts	

17300 Jennifer Street
Gardner, KS 66030

October 23, 2013

City of Gardner
120 East Main
Gardner, KS 66030

To Whom It May Concern:

I am writing to ask the city council to consider changing the laws regarding chickens in the city of Gardner. My family and I would like to have 2-4 chickens on our property. We are interested in adding chickens to our yard along with our composting and gardening efforts already in place. It is all part of what can be termed "urban homesteading." This is a national trend of living in an environmentally responsible way and learning to sustain your family through food you provide in your own yard.



Compost bin in our yard.



Gardens where we compost our grass clippings.

Although we could move to another location to be able to add chickens, it is our desire to stay in our current home and yard. We have the perspective that if we lived in the heart of a city like Washington, D.C. or New York City, our home and yard would be considered large. If we work with what we have and make it comfortable for our family, we should be able to pay off our house before our children graduate from high school. This meets our financial goal of being able to assist them with college.



Homes in Washington, D.C.



Yard in Washington, D.C.

A beautiful overview of urban homesteading can be seen on Growing a Greener World's website. It is episode 115 in season 1 (<http://www.growingagreenerworld.com/episode115/>). Theresa Loe lives in urban Los Angeles right by the airport. She has a visually pleasing yard that is around one tenth of an acre. She provides enough food for her family of four through her garden and a few chickens.



Theresa Loe's chicken coop and run

I'm not a chicken expert, but there are a few facts that I want to bring to your attention:

- A small flock of hens should not be noisy
- Chickens eat annoying bugs
- They are the only pets that give you something like eggs in return
- Most breeds of chickens have a heavy body weight that prevents them from flying over fences
- Chickens only require about 3 feet of space per chicken in a chicken run
- Chickens require no more care than a dog or cat
- Many city ordinances do not allow roosters, but do allow chickens
- Properly cared for chickens should not smell

Many cities, including Lee's Summit, MO, have changed their laws to allow chickens due to the increasing popularity of urban homesteading. Cities like Leavenworth, KS already allow them (<http://library.municode.com/index.aspx?clientId=11145&stateId=16&stateName=Kansas> Chapter 18 section 94 & 95). The website, Urban Chickens, (<http://urbanchickens.org/chicken-ordinances-and-laws/>) has a great article regarding "components of a just and well functioning chicken ordinance."

If we were allowed to have 2-4 chickens, we plan to put the coop and run at either the north west corner of our privacy fence or between our house and our privacy fence on the north side. We plan to refurbish a dog house that is painted the same color as our house for the chicken coop and to build a small matching run to place next to it.



Our home.

NW corner of our yard.



North side where there is a fenced off section between our house and privacy fence.

We would be grateful to have the opportunity to have chickens if you are willing and able to make provision for this at our current location. Even if you are unable to change the law, or even if a new law would not apply to our property, I believe it is useful to share this letter with you. I think urban homesteading is a trend that will continue and you will probably receive more requests from other families. I know that it is not an easy task to write laws and ordinances that take into consideration all of the aspects that make Gardner a great place to live for everyone. Thank you for taking the time to read my letter.

Sincerely,

Rachel Farmer

To: Mayor and City Council
From: Mike Hall, Community Development Director
Date: December 13, 2013
Subject: Urban Agriculture and the Keeping of Chickens

I. Introduction

Staff was asked to report on the issues and possible code provisions for the raising of chickens and other small-scale agricultural practices accessory to residential uses in the City. Small scale, noncommercial urban agriculture may include a variety of different practices including but not limited to community gardens, backyard gardens and composting, and the keeping of chickens, bees or pigs. Within the past six months staff have received multiple inquiries about keeping chickens and at least one inquiry each regarding bees and pigs.

This report is mainly intended to address the keeping of chickens as a hobby or accessory use to single family residences. In her October 23rd letter to the City of Gardner, Rachel Farmer requests consideration of a change in the City's regulations and provides an effective rationale for considering the change. As she says, a "small flock of chickens should not be noisy, ... chickens eat annoying bugs, and chickens only require about 3 square feet of space per chicken in a chicken run." The web site ***backyardchickens.com*** supports Ms. Farmer's claims. This report describes Gardner's current regulations for keeping chickens and summarizes regulations from several other cities.

There has been a growing interest in urban agriculture nationwide. According to Kristin McArdle, contributing author to online magazine *The Huffington Post*, urban agriculture is at the forefront of the "eat local" movement and we are in a period of "voluntary simplicity" in which many young rural and urban inhabitants want to produce their own food.¹ Some cities and towns around the United States are responding to the growing interest in urban agriculture by lessening restrictions on gardens, the keeping chickens and other animals. In 2012 the City of Lawrence, Kansas adopted liberal regulations for the keeping of chickens. The City of Lee's Summit, Missouri adopted permissive standards for chickens in 2013. Twelve years ago, at the request of neighborhood groups, I wrote a zoning ordinance providing for hobby beekeeping in Boise, Idaho.

II. Current Gardner Regulations

There are two separate titles of the Gardner Municipal Code that address animals. The Community Development Department administers the zoning ordinance (Title 18). The Police Dept administers the Animal code (Title 6) Anyone keeping animals must comply with both Title 18 and Title 6.

Title 6 provides for the issuance of special permits for chickens and other animals "normally associated with that of being a farm animal". Special use permits issued pursuant to Title 6 are issued for a year. The Gardner Police Department may exercise the discretion to approve or deny a permit for a chicken or other farm animal for a period of a year, and may approve or deny renewal of the permit. Title 6 does not include standards for minimum lot size, fencing, setbacks, or minimum pen or coop sizes.

The zoning ordinance provides for keeping of chickens (poultry) in the A - agricultural zoning district subject to the standards below.

18.15.020 Permitted uses.

In District A, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

- A. Farming, dairy farming, livestock, poultry raising, game birds, pasturing of livestock, and all uses commonly classed as agricultural, with no restrictions as to operation of such vehicles or machinery as are customarily incidental to such uses, and with no restrictions as to the sale or marketing of products raised on the premises; provided, that any building, structure or yard for the raising, feeding, pasturing, housing or sale of livestock or poultry shall be located at least 100 feet from a District R-1 to R-5 inclusive; and further provided, that there shall be no feeding or disposal of garbage, rubbish, or offal, other than regular removal, within 300 feet of a District R-1 to R-5 inclusive.
- B. Publicly owned or operated parks, playgrounds, golf courses and recreational uses.
- C. Single-family dwellings when in conjunction with an agricultural use.
- D. Churches or similar places of worship.
- E. Public or private schools.
- F. Greenhouses and nurseries.
- G. Stands for the sale, at retail, of agricultural products or commodities raised on the premises.
- H. Accessory uses, including repair shops, sheds, garages, barns, silos, irrigation wells and pumps, bunk houses, incidental dwellings, buildings and structures customarily required for any of the above uses. One sign not to exceed four square feet shall be considered an accessory use.
- I. Home occupations as set out in Chapter [18.140](#) GMC.

According to chapter 18.140 (Accessory Uses), chickens may be kept as pets on property zoned R-1 or R-2 (single family and two-family residential districts) as a use accessory to a permitted use on parcels of three acres or greater. A special use permit is required on parcels smaller than 3 acres. SUPs require approval of the City Council. By "accessory use" it is meant that it is secondary to the property being used as a permitted principal use. For example, single

family homes are permitted in the R-1 zone. A person living in a home on a lot in the R-1 zone may keep pets, since the keeping of pets is accessory to the principal permitted use of a single family dwelling.

18.140.100 Districts R-1 and R-2.

* * *

D. Animals. Horses, ponies, cows, chickens or other animals may be kept; except, that on a lot or tract of less than three acres in size, a special use permit shall be required.

Chapter 18.145 (Special Uses) also addresses the keeping of chickens and other farm animals.

18.145.020 Uses

* * *

29. Keeping of horses, cows, ponies, cows or chickens on less than three acres.

In conclusion, the keeping of chickens and other animals on parcels of less than three acres may be permitted in the RE (Residential Estates), R-1 (Single Family Residential), and R-2 (Two Family District) zoning districts by the issuance of a special use permit by the Governing Body.

III. How other Cities Regulate Chickens

City	Permitted in Residential Zoning Districts without Special Permit	Maximum Number Chickens Permitted	Roosters Permitted	Setbacks and other Standards	Permitted in Residential Zoning Districts by Special Permit
Lenexa	Yes only on lots of 1 acre or more in Ag, RE, or RPE district.	4 per acre not to exceed 12	yes	100 foot minimum setback from any adjacent dwelling; min. 25' setback from side and rear property lines.	May deviate from area and other dimensional standards by special livestock permit in Ag, RE, or RPE district.
Olathe	no	na	na	na	Requires SUP for lots less than 3 acres.
Overland Park	no	na	na	na	Requires SUP for lots less than 3 acres.
Kansas City, MO	Yes.	15 chickens	Yes. 1	Chickens must be kept 100' from any neighboring homes. Roosters must be kept 300' from neighboring homes.	
Lawrence	Yes; in any residential district	1 "fowl" per 500 sf of lot size and no more than 20 "fowl".	yes	Coop or other shelter required; 3 square feet per fowl in an enclosed indoor run, and 10 sf per fowl with no enclosed indoor run. Setbacks similar to those for other accessory buildings.	na
Lee's Summit	Yes.	6 per tract of land	Yes	Standards for coop or "henhouse" construction; not permitted in front yards; henhouses shall be set back a minimum of 10' from property lines and 40' from adjacent residential and other structures.	na
Chapel Hill, NC	Yes.	10	No	Chickens must be kept a minimum of 30' from nearest residence other than owner and shall not be kept in front of residences. ²	na

IV. Potential Nuisances from Chickens (The Raymore Report)

Staff for the City of Raymore, Missouri wrote a report to their planning commission on the keeping of chickens, bees, pigs and other animals as pets.³ Most of the readily available literature extols the benefits of keeping chickens and other animals in urban residential areas with little or nothing to say about the negative effects of keeping such animals. The Raymore report acknowledges the potential benefits but also describes the negative effects as follows:

Noise: The noise levels of hens is generally low with no or minimal negative impacts. Roosters are loud and many ordinances that are permissive with respect to chickens restrict and even prohibit roosters. However, even if the owner does not intend to keep roosters, they may come into possession of them due to improperly sexed chicks.

Odor: Chicken coops and runs do carry odors, although they can be mitigated by the imposition of setbacks. The most significant odor risk is due to the potential for manure buildup. Ordinances may restrict the amount of manure buildup, although the enforcement of such a restriction may be difficult.

Potential for Disease Transmission: There are risks related to the transmission of diseases. The risks are significant for large commercial operations, and relatively small for the keeping of chickens as pets. Regarding backyard chickens, disease is most likely to be spread to people residing or visiting the residence with chickens, through the direct handling of chickens or through direct contact with chicken manure. In my opinion, it will be difficult to address these risks via zoning regulations.

Attraction of Pests: Chickens attract raccoons, cats, rodents, hawks, and other predators, which may carry their own pathogens. The threat of pests may be addressed by requiring coops and pens.

Stray Chickens: The Raymore report notes that the greatest problem has been the care and disposal of unwanted chickens. People tend to abandon chickens after finding the experience of keeping chickens unpleasant. People may abandon incorrectly sexed roosters whom residents find to be noisy and/or illegal.

V. Conclusion

The city regulations researched for this report vary substantially in how they provide for hobby chicken keeping. Gardner's zoning ordinance requires a special use permit for chicken keeping on any lot less than three acres, which will apply to almost all residential lots in Gardner. The regulations of Lenexa, Overland Park, Olathe are similar to Gardner's. Lawrence, Lee's Summit, and Kansas City, Missouri have relatively permissive regulations for keeping chickens. Where provisions for chicken keeping exist, they typically require that

substantial setbacks for chicken coops and from houses on adjacent properties. Setbacks from property lines are similar to the setbacks we would expect for accessory buildings.

The Raymore report identifies several potential negative effects that should be addressed if the City of Gardner wishes to loosen regulations for keeping chickens. It is staff's opinion that the creation of standards to address the impacts can be implemented effectively only if some form of permit is required for the keeping of chickens, whether it be an administrative permit or a permit issued by the Planning Commission or Governing Body.

Although the details of regulations for livestock and bees are not included in this report, the urban agriculture movement has resulted in the lessening of restrictions on those uses, as well. If it is the direction of the Governing Body to examine further, and possibly draft, less restrictive regulations for the keeping of chickens, staff recommends the keeping of bees, pigs, and other similar animals also be evaluated in anticipation of residents' desires.

¹ *Urban Agriculture: Fad or Necessity*; www.huffingtonpost.com; November 14, 2013

² www.backyardchickens.com

³ Urban Animals Report to the Planning Commission, City of Raymore, Missouri; August 7, 2012